

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

TRESSIE LYNN MITCHELL,)	
Petitioner,)	Case No. 7:04CV00449
)	
v.)	OPINION AND ORDER
)	
UNITED STATES,)	By: James P. Jones
Respondent.)	Chief United States District Judge

Petitioner Tressie Lynn Mitchell, a federal inmate proceeding pro se, brings this motion for reconsideration of this court's order of March 2, 2005, dismissing Mitchell's motion under 28 U.S.C. § 2255. In her motion, Mitchell continues to argue that she did not "use" a firearm in violation of 18 U.S.C. § 924(c). After a careful review of the motion, the court is of the opinion that the motion for reconsideration must be denied.

The Court of Appeals for the Fourth Circuit has held that ineffective assistance of counsel claims do not survive a collateral attack waiver. See United States v. Lemaster, 403 F.3d 216 (4th Cir. 2005). Because this court found that Mitchell's collateral attack waiver was entered into knowingly and voluntarily, Mitchell's arguments regarding use of the gun are insufficient to show that this court erred in dismissing Mitchell's petition. In addition, this court already addressed Mitchell's gun arguments in the opinion dismissing the case, and will not revisit them again here.

For these reasons, it is **ORDERED** that petitioner's Motion for Reconsideration is **DENIED**.

ENTER: May 17, 2005

/s/ JAMES P. JONES

Chief United States District Judge